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COMCAST CABLE COMMUNICATIONS LLC
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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

In re ACACIA MEDIA TECHNOLOGIES CORPORATION	Case No. C-05-01114 JW **DECLARATION OF DAVID J. SILBERT**

Dockets.Justia.com

I, DAVID J. SILBERT, declare that the following is true:

1. I am an attorney licensed to practice before this Court, and a partner in the firm of Keker & Van Nest, LLP, counsel for defendants Comcast Cable Communications LLC and Insight Communications, Inc. in this action. I make this declaration of my own personal knowledge, and if called to do so, would testify to the facts stated hereto under oath.

2. I am informed and believe that on or around September 11, 2008, David Benyacar, counsel for defendant Time Warner Cable, Inc., spoke by telephone to Alan Block, counsel for Acacia. Mr. Benyacar summarized their discussion in a letter dated September 15, 2008, a true and correct copy of which is attached hereto as Exhibit 1. I am further informed and believe that, as set forth in Exhibit 1, Mr. Benyacar asked Mr. Block to stipulate to continue the hearing date on Acacia's motion for summary judgment to the same date as the hearing on defendants' pending motions under 35 U.S.C. § 112.

3. Acacia refused to so stipulate. On September 12, 2008, Mr. Block sent an email to Mr. Benyacar stating Acacia's position. A true and correct copy of that email and attachment are attached hereto as Exhibit 2.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on or around September 23, 2008 in San Francisco, California.

By: *_/s/ David J. Silbert_*
DAVID J. SILBERT